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प्रसाधारक

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION

(Department of Labour & Employment)

NOTIFICATION

New Delhi, the 26th September 1968

S.O. 3489.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme for the Port of Kandla, the same having been previously published as required by the said sub-section, namely:—

THE KANDLA UNREGISTERED DOCK WORKERS REGULATION OF EMPLOYMENT) SCHEME, 1968

1. **Short title, application and commencement.**—(1) This Scheme may be called the Kandla Unregistered Dock Workers (Regulation of Employment) Scheme, 1968.

(2) It applies to the dock workers of the classes specified in Schedule I and to the employers of such dock workers in the port of Kandla, but does not apply to—

(a) workers engaged in any class or description of work carried out in workshops or in relation to sailing vessels or to ship's crew; and

(b) monthly workers of the listed employers working on their regular establishment.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. **Object.**—The object of this Scheme is to regulate the employment of, and to ensure efficient performance of work by dock workers to whom this Scheme applies.

3. **Definitions.**—In this Scheme, unless the context otherwise requires,—

(a) "Act" means the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);

- (b) "Administrative Body" means the Administrative Body appointed under clause 4;
- (c) "Board" means the Kandla Dock Labour Board constituted under the Act;
- (d) "Chairman" and "Deputy Chairman" mean the Chairman and Deputy Chairman respectively of the Board;
- (e) "Committee" means a Committee appointed under clause 11;
- (f) "daily worker" means a dock worker who is not a monthly worker;
- (g) "dock employer" means the person or firm by whom a dock worker to whom the Scheme applies is employed or is to be employed;
- (h) "dock work" means work ordinarily performed by dock workers of the classes to which this Scheme applies;
- (i) "Labour Officer" means the Labour Officer appointed under clause 10.
- (j) "listed employer" means a dock employer listed by the Board under clause 12 and includes for the purpose of clause 15, an authorised agent of such employer;
- (k) "listed worker" means a dock worker listed under clause 13;
- (l) "monthly worker" means a dock worker who is employed by a listed employer on monthly basis under a contract which requires for its termination at least one month's notice on either side;
- (m) "Personnel Officer" means the officer appointed as such under clause 5;
- (n) "vessel" means an ocean-going vessel or ship other than a sailing vessel whose gross registered tonnage is not less than 350 tonnes.
- (o) "Week" means the period commencing from the midnight of Saturday and ending on the midnight of the next succeeding Saturday.

4. Administrative Body.—(1) The Central Government may, by notification in the Official Gazette, appoint a body consisting of such employers of dock workers as the Central Government may nominate in this behalf to be the Administrative Body for the purpose of carrying on the day-to-day administration of this Scheme. If a body consisting of employers of dock workers is not appointed as the Administrative Body, the Deputy Chairman shall constitute the Administrative Body.

(2) The Administrative Body shall, subject to the supervision and control of the Board and the Chairman and subject to the provisions of clause 19 carry on the day-to-day administration of this Scheme.

(3) The Central Government may for sufficient cause remove any Administrative Body appointed under sub-clause (1):

Provided that an Administrative Body shall not be removed unless it has been given a reasonable opportunity of being heard.

(4) (a) If the Deputy Chairman constitutes the Administrative Body, he may be assisted by an Administrative Superintendent in the discharge of the functions of the Administrative Body under clause 8.

(b) The Deputy Chairman may, with the approval of the Chairman delegate in writing to the Administrative Superintendent any of the functions specified under clause 9.

5. Administrative Superintendent, Personnel Officer and other servants of the Board.—The Board may appoint an Administrative Superintendent, a Personnel Officer and such other officers and servants and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that, no post the maximum salary of which exclusive of allowances is rupees eight hundred and above per mensem shall be created, and no appointment to such post shall be made by the Board except with the previous approval of the Central Government;

Provided further that approval of the Central Government shall not be necessary to any appointment in a leave vacancy of a duration of not more than three months.

6. Functions of the Board.—The Board may, with a view to regulating the employment of dock workers to whom this Scheme applies, take such measures as it may consider desirable, including measures for—

- (a) appointing, abolishing or reconstituting committees under clause 11;
- (b) keeping and maintaining a list of dock employers, entering or re-entering therein the name of any dock employer and, where circumstances so require removing

- from the list, the name of any dock employer, either at his own request or in accordance with the provisions of this Scheme;
- (c) keeping and maintaining from time to time a list of dock workers and removing from the list the name of a dock worker either at his own request or in accordance with the provisions of this Scheme;
- (d) issuing photo-identity cards for listed workers;
- (e) recovering from listed employers, such administrative charges as it may determine;
- (f) providing medical facilities for listed workers;
- (g) making recommendations to the Central Government about such changes in this Scheme as the Board may consider desirable from time to time;
- (h) constituting, maintaining and administering the Dock Workers Welfare Fund by the Board and recovering from all the listed employers contributions towards the said Fund in accordance with the rules framed by the Board;
- (i) Subject to the provisions of clause 5, sanction the creation of posts and make appointments to such posts.

7. Functions of the Chairman.—(1) The Chairman shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of this Scheme and in particular—

- (a) to ensure, with the assistance, wherever necessary, of such committee or committees as may be appointed under clause 11, that the decisions of the Board in regard to the entry of names in, or the removal of names from the list of dock employers or the list of dock workers are carried out expeditiously;
 - (b) to supervise and control the working of the officers and servants of the Board as prescribed in this Scheme;
 - (c) to take disciplinary action against listed employers as prescribed in this Scheme;
 - (d) to discharge all other duties and responsibilities specifically vested in the Chairman under this Scheme;
 - (e) to sanction the creation of posts the maximum salary of which exclusive of allowances is upto rupees six hundred per month and to make appointments to such posts.
- (2) The Chairman may delegate in writing—
- (a) to the Deputy Chairman, any of his functions under sub-clause (1), and
 - (b) to the Personnel Officer, any of his functions under sub-clauses (1)(a), (1)(c) and (1)(d).

8. Functions of the Deputy Chairman and the Personnel Officer.—Without prejudice to the powers and functions of the Board and the Chairman, the Deputy Chairman and the Personnel Officer shall carry out such functions as may be assigned to them by the Chairman under clause 7 or as are provided under this Scheme.

9. Functions of the Administrative Body.—The Administrative Body shall be responsible for the administration of this Scheme, under the control and supervision of the Board and the Chairman, and shall, in particular, be responsible for—

- (a) the allotment of work by rotation to listed workers;
Provided that a monthly worker of a particular category attached to a listed employer shall be entitled to be employed by that employer in preference to a daily worker.
- (b) the allocation of the listed workers in the pools constituted under clause 17 who are available for work, to the listed employers and for this purpose, the Administrative Body shall—
 - (i) be deemed to act as an agent for the listed employer;
 - (ii) make the fullest possible use of the listed workers in each pool; and
 - (iii) provide for the maintenance of records of employment and earnings;
- (c) the payment, as agent of the listed employer, to each listed worker of all earnings due to the worker from the employer;
- (d) authorising the employment of unlisted workers if listed workers are not available for work in the pool or in such circumstances as the Chairman may approve;
- (e) appointing, subject to the budget provision, such officers and servants from time to time as may be necessary;

Provided that the creation of posts, the maximum salary of which exclusive of allowances is upto rupees three hundred per month, and appointment of persons to such posts shall be subject to clauses 6(i) and 7(e).

10. Labour Officer.—The Administrative Body when it consists of employers of dock workers shall appoint a Labour Officer or Labour Officers with the approval of the Board. The Labour Officer shall, under the supervision and control of the Administrative Body, carry out such functions as may be assigned to him by that Body consistent with the provisions of the Scheme.

11. Committees.—The Board may appoint one or more committees, composed of such representatives of dock employers and dock workers to whom this Scheme applies and such other person or persons as may be nominated by the Board to facilitate compliance with, or implementation of, the provisions of this Scheme and may entrust to such committee or committees such of its functions as it may deem fit. The Board may dissolve or re-constitute such committee or committees, from time to time, as it may deem fit.

12. Listing of employers of dock workers.—(1) The Board shall maintain a list of employers of dock workers to whom this Scheme applies.

(2) Every person, who is an employer of dock workers to whom this Scheme applies on the date of commencement of this Scheme, and who applies to the Board in this behalf on or before such date as may be fixed by the Board for this purpose, shall be entitled to be listed under this Scheme.

(3) The Board may, if it considers it expedient and necessary to do so, list employers other than those covered by sub-clause (2).

(4) Where the Board refuses to list an employer, it shall communicate to the person concerned a copy of the order together with the reasons therefor.

13. Listing of dock workers.—(1) Any dock worker to whom this Scheme applies, who has been in the employment of an employer and has worked under him for such number of days or shifts during such period as may be prescribed by the Board, shall subject to the following conditions be eligible for being listed, namely:—

- (i) The number of workers of each class to be selected for listing shall not exceed the number which the Board may determine from time to time. Selection for listing shall be made, as far as possible, on the basis of seniority as determined by the length of service rendered by a worker or on such other basis as the Board may determine:

Provided that such worker shall be medically fit and shall not be more than 60 years of age.

- (ii) Only Indian citizens shall be eligible for being listed:

Provided that dock workers who are not Indian citizens but are otherwise eligible may be listed provisionally in a separate list on such terms and conditions as the Board may, in consultation with the Central Government prescribed from time to time.

(2) Workers shall be listed under this Scheme in accordance with the following procedure, namely:—

- (i) Each eligible dock worker shall apply to the Board through his employer on or before such date as may be fixed by the Board or any committee appointed under clause 11 for the purpose. The application shall be submitted in duplicate in the form prescribed by the Board, and shall be accompanied by three copies of passport sized photograph of the worker concerned, the cost of which shall be borne by him.

- (ii) A listed employer shall not refuse to forward the application of a worker who has been in his employment and has worked under him for such number of days or shifts during such period as may be prescribed by the Board under item (i):

Provided that if any question arises whether or not a worker has been in the employment of his employer and has worked under him for such number of days or shifts as may be prescribed by the Board, it shall be referred to such officer, authority or committee, as the Board may specify and the decision of such officer, authority or committee, as the case may be, shall be final.

- (iii) The period for which a worker of a class specified in Schedule I has served on work relatable to that class under a particular employer shall as far as possible be recorded on the basis of payments of wages made to the worker previously, either directly by the employer or through any of the employer's agents.
- (iv) While forwarding an application of a dock worker, the employer shall, if he does not recommend the application, state the reasons for which he does not recommend the application.
- (v) Every worker shall pay to the Board a listing fee of twenty-five paise on his name being listed.
- (vi) If the application is in order, the Board shall enter the name of the worker in the list of workers and retain one copy each of the application and the photograph for record and return the other copy of the application with a photograph affixed on it together with a photo-identity card to the listed employer through whom the application has been received. The employer shall hand over the photo-identity card to the worker concerned.

(3) Notwithstanding any other provision of this Scheme, where the Board is of opinion that a dock worker has secured his listing by furnishing false information in his application or by withholding any information required therein, or where it appears that a worker has been listed improperly or incorrectly, the Board may direct the removal of his name from the list:

Provided that before giving any such direction, the Board shall give to the dock worker an opportunity of showing cause why the proposed direction should not be issued.

- (4) A copy of every order refusing to list a worker shall be communicated to him.

14. Medical Examination.—If a listed employer deems it necessary, a worker shall undergo, at the cost of the listed employer, a medical examination by a Medical Officer appointed by the Chairman. If the worker is found permanently unfit, his name shall be removed from the list.

15. Obligations of listed employer.—(1) Every listed employer shall be bound by the provisions of this Scheme.

(2) A listed employer shall maintain records in such form as may be prescribed by the Board, showing the names of dock workers employed by him daily, the payments made to them and such other particulars as the Board may specify.

(3) A listed employer shall prepare at the end of each month a statement showing the number of days for which each dock worker was employed by him and the payments made to each worker.

(4) A listed employer shall pay to the Administrative Body in such manner and at such times as the Chairman may direct the administrative charges payable under sub-clause (6) and the gross wages due to the listed workers.

(5) At the end of each month, a listed employer shall make a summary of the monthly statement referred to in sub-clause (3) and submit it to the Board within a fortnight of the commencement of the next month. The listed employer shall also maintain such registers and records and submit such other returns and information as the Board may require. All registers, records and returns shall be made available for inspection by the officers of the Board whenever required.

(6) Every listed employer shall pay to the Board administrative and such other charges as may be prescribed by the Board.

16. Obligations of listed workers.—(1) Each listed worker shall be deemed to have accepted the obligations of this Scheme.

(2) A listed worker shall not offer himself for employment with any other employer on any day on which he is offered employment by the Board.

(3) A listed worker who is available for work shall carry out the instructions of the Board and shall—

- (a) report at such call stands or control point and remain there for such period as may be specified by the Board; and
- (b) accept any employment in connection with dock work, whether in the category in which he is listed or any other category for which he is considered suitable by the Board.

(4) A listed worker when booked for work shall carry out the work entrusted to him as per the instructions of his employer or his authorised representative or supervisor.

17. Special provisions in respect of foodgrain workers and their employers.—(1) The provisions of clauses 12, 13 and 15 to 25 shall, in relation to the foodgrain workers working in the docks and their employers, apply subject to the following provisions, namely:—

- (i) The Department of Food in the Ministry of Food, Agriculture, Community Development and Co-operation of the Government, of India or its authorised contractor shall be listed under sub-clause (3) of clause 12 and the Department of Food or the name of the contractor shall be included in the list of employers;

Provided that the name of the contractor shall be removed from the list of employers on the expiry, termination or cancellation of his contract with the aforesaid Department.

- (ii) If the number of foodgrain workers listed under clause 13 is not adequate for the requirement of the docks, the Board may—

- (a) transfer any surplus listed workers, if found suitable, to the list of foodgrain workers; and
(b) arrange to list new workers, who are citizens of India from workers registered with the local Employment Exchange. If, however, the requirement exceeds the number of suitable men available on the register of the Employment Exchange on the day of recruitment; direct recruitment after absorbing suitable men from the Employment Exchange may be made:

- (iii) The Board shall arrange for the classification of the foodgrain workers by categories in the list and prepare and maintain a separate sub-list of workers for each of the categories. The listed foodgrain worker shall be classified into the following categories, namely:—

- (a) Shed Foremen;
(b) Fillers;
(c) Loaders;
(d) (i) Pallawalas;
(ii) Pallawallis;
(e) Stitchers.

- (iv) Each sub-list of workers prepared under item (iii) shall constitute a pool of workers for the category to which the said sub-list relates;
(v) The Fillers and Loaders shall be employed in gangs, each gang consisting of such number of workers as may be fixed by the Board;
(vi) Workers of each category shall be allotted work by rotation. Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs;
(vii) The Administrative Body shall be responsible for the allocation of the foodgrain workers in the pools constituted under item (iv) who are available for work;
(viii) The Department of Food or its contractor shall not employ a worker other than a foodgrain worker who has been allocated by the Administrative Body in accordance with the provisions of item (vii);
(ix) The listed employer shall in accordance with arrangements made by the Board submit all available information of his current and future labour requirements to the Board;
(x) The Listed employer shall keep such records as the Board may require, and shall produce to the Board, or to such persons as may be designated by the Board, upon reasonable notice all such records and documents of any kind relating to foodgrain workers and to the work upon which they have been employed and furnish such information relating thereto as may be set out in any notice or direction issued by or on behalf of the Board;
(xi) A foodgrain worker in the pool who is available for work shall be deemed to be in the employment of the Board;
(xii) A foodgrain worker in the pool who is available for work shall not engage himself for employment under any listed employer other than the Department of Food or its contractor unless he is allocated to that listed employer by the Administrative Body;

- (xiii) A foodgrain worker in the pool who is available for work shall carry out the directions of the Administrative Body and shall—
- (a) report at such call stands or control points on such days and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour, as may be specified;
 - (b) accept any employment in connection with dock work whether in the category or pool in which he has been listed or in any other category or pool for which he is considered suitable by the Administrative Body;
- (xiv) A listed foodgrains worker who is available for work when allocated by the listed employer shall carry out his duties in accordance with the directions of such employer or his authorised representative or supervisor and rules of the port or place where he is working;
- (xv) A foodgrain worker in the pool who fails to comply with any of the provisions of this Scheme, or commits any act of indiscipline or misconduct, may be reported in writing to the officer designated for the purpose who may after investigating the matter, give him a warning in writing or suspend him for a period not exceeding seven days;
- (xvi) Where in the opinion of the said officer, a punishment higher than that provided in item (xv) is merited, he shall report the case to the Deputy Chairman;
- (xvii) On receipt of the written report from the said officer under item (xvi) or from the listed employer that a foodgrain worker in the pool has failed to comply with any of the provisions of this Scheme or has committed an act of indiscipline or misconduct or has consistently failed to produce the standard output or has been inefficient in any other manner, the Deputy Chairman may make or cause to be made such further investigation as he may deem fit, and thereafter take any of the following steps, as regards the worker concerned, that is to say, he may impose any of the following penalties, namely:—
- (a) give him a warning in writing;
 - (b) Suspend him for a period not exceeding three months;
 - (c) terminate his services after giving fourteen days' notice; or
 - (d) dismiss him;
- (xviii) Before any action is taken under item (xv) or (xvii), the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him. A copy of the final order shall also be communicated to the person concerned;
- (xix) The listed employer shall be informed simultaneously about the action taken under item (xv) or (xvii);
- (xx) A foodgrain worker in the pool, who is aggrieved by an order passed by the Officer mentioned in item (xv) or the Deputy Chairman under item (xvii), may appeal to the Deputy Chairman or the Chairman, as the case may be. The appeal, shall be in writing and shall be preferred within fourteen days of the receipt of the order appealed against and the order passed on such appeal shall be final:

Provided that the appellate authority may for reasons to be recorded, admit an appeal preferred after the expiry of fourteen days.

(2) If the Board is satisfied that the listed foodgrain employer which shall include the Department of Food or its representative has made adequate arrangements for the operation of the pool of listed foodgrain workers and payment of wages direct to them, the Board may direct that the provisions of clauses 12, 13, 15 to 19 and 23 to 25 of this Scheme shall in relation to the foodgrain workers and their employers be subject only to the provisions of items (i) to (vi) of sub-clause (1) and the following—

"If the number of listed foodgrain workers available for work in any shift is not sufficient, the employer may, subject to any limitations imposed by the Board, employ along with the available listed foodgrain workers unlisted workers in that shift."

(3) A listed employer shall on demand make a payment to the Administrative Body by way of deposit for wages which may be due to be paid to the listed foodgrain workers against the labour drawn, as the Board may consider necessary.

(4) The foodgrain workers shall continue to get same benefits from the Department of Food as they are getting at present.

18. Restriction on employment.—Subject to the provisions of clauses 1 and 9 (d), no person other than a listed employer shall employ any worker on dock work, nor shall a listed employer engage for employment or employ a worker on dock work unless that worker is a listed worker.

19. Disciplinary procedure.—(1) The Personnel Officer on receipt of information, whether on a complaint or otherwise that a listed employer has failed to carry out any of the provisions of this Scheme may, after investigating the matter,—

(i) give him a warning in writing, or

(ii) if in his opinion, a higher penalty is merited, report the case to the Deputy Chairman.

(2) The Deputy Chairman shall then cause such further investigation to be made as he may deem fit and take any of the following steps as regards that employer, that is to say, he may—

(a) censure the employer and record the censure in his record sheet; or

(b) subject to the approval of the Board and after one month's notice in writing to the employer, direct that the name of the employer be removed from the list of employers for such period as may be determined by the Board or permanently if the Board so determines.

(3) Before any action is taken under this clause, the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him. A copy of the final order shall also be communicated to the person concerned.

(4) All disciplinary powers in respect of a listed worker shall vest in the listed employer by whom that worker is employed. A copy of every order passed against a worker shall be communicated to him. The name of a listed worker who is discharged as the result of disciplinary action shall be communicated to the Board by the listed employer concerned. On receipt of such information, the Board shall remove the worker's name from the list unless the order of discharge is set aside on appeal preferred under clause 24.

20. Guaranteed Minimum Wages in a month.—A listed worker in the pool shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance as prescribed by the Board appropriate to the category or pool to which he permanently belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above. The guaranteed minimum wages in a month shall be—

(a) for the number of days for which wages are guaranteed in a month subject to the condition that the worker attended for work on all days of the month as directed by the Board; or

(b) proportionate to the number of days on which the worker attended for work provided he was excused from attendance on all the remaining days of the month.

(2) Subject to the provisions of sub-clause (1), the minimum number of days in a month for which wages are guaranteed may be fixed by the Board for each year on the basis of the monthly average employment obtained by the workers in the pool in the lowest categories of dock workers during the preceding year until the minimum number of days reaches twenty-one, provided that the number so fixed shall not, in any case, be less than the number in the preceding year.

NOTE.—The method of assessing the average employment is detailed in Schedule II.

(3) The minimum number of days for which wages shall be guaranteed under sub-clauses (1) and (2), shall not automatically apply to workers in new categories that may be listed after the date of commencement of this Scheme. The minimum number of days for which wages shall be guaranteed to these categories shall be determined after a year of the introduction of the rotational booking. The annual re-fixation of the minimum number of days, as under sub-clause (2) shall be done independently in their case also.

Explanation.—In sub-clauses (1), (2) and (3) of this clause a "day" shall mean a "shift".

21. Attendance allowance.—Subject to the other provisions of this Scheme, a worker in the pool who is available for work, but for whom no work is found shall be paid attendance

allowance at the rate of rupee one and fifty paise per day for the days on which during a calendar month he attended for work as directed by the Board and no work was found for him:

Provided that the Board may allow payment of attendance allowance exclusive of dearness allowance at such higher rate not exceeding rupees two as it may deem necessary:

Provided further that no attendance allowance shall be payable for any day for which full wages, inclusive of dearness allowance, have been paid.

22. Special provision in respect of workers involved in criminal charges.—Notwithstanding anything contained in this Scheme—

- (i) A listed worker arrested or detained by the police on a criminal charge (hereinafter referred to as the charge) for a period exceeding 48 hours shall be deemed to have been suspended by an order of the Deputy Chairman with effect from the date of detention and shall remain under suspension until further orders. In cases of arrest or detention for a period not exceeding 48 hours, the worker may be placed under suspension if the Deputy Chairman thinks fit and proper.
- (ii) If the worker is released on bail, the question whether the worker should be allowed to resume duty shall be considered by the Deputy Chairman. While permission to resume duty may be granted where the offence is a trivial or technical one, no such permission shall be granted if there is a serious charge particularly involving moral turpitude and the decision of the Deputy Chairman shall be final.
- (iii) In every such case, the Administrative Body shall also ascertain whether the charge relates to his work or position as a dock worker. If the worker appears to be *prima facie* guilty of misconduct or negligence of duty he should also be proceeded with in accordance with the provisions of this Scheme, and such proceedings may ordinarily be undertaken and continued without waiting for the outcome of the criminal case.
- (iv) In cases where the charge does not relate to the conduct of the worker as a dock worker, no action shall be taken till the decision of the criminal court is known. As soon as the decision of the court is known, it shall be communicated to the Deputy Chairman for the issue of orders as to how the worker is to be dealt with.
- (v) If the worker is discharged or honourably acquitted by the court he shall ordinarily be allowed to resume duty, the period under suspension being treated as a period on duty.
- (vi) If the worker is convicted of a charge which is considered to be of such a nature as to render his further continuance as a dock worker undesirable, the Deputy Chairman may on taking into account the facts and circumstances of the case direct the removal of the name of the worker from the list. In any other case, the Deputy Chairman may pass such orders as he thinks fit and proper.

23. Appeals by employers.—(1) A listed employer who is aggrieved by an order made under clause 19 may appeal—

- (a) to the Deputy Chairman, if the order was made by the Personnel Officer; or
- (b) to the Chairman, if the order was made by the Deputy Chairman.

(2) A dock employer who has been refused listing under clause 12 may appeal to the Central Government.

(3) Every appeal referred to in sub-clauses (1) and (2) shall be in writing and preferred within fourteen days of the date of receipt of the order appealed against and the order passed on such appeal shall be final:

Provided that the appellate authority may, for reasons to be recorded, admit an appeal preferred after the expiry of fourteen days.

24. Appeals and Review.—(1) A listed worker who is aggrieved by an order clause 19(4) may appeal to the Deputy Chairman.

(2) The Board may, on its own or on a representation received from an interested party, reviewed its decision regarding the listing of dock worker under clause 13 or refusal

(3) An appeal under sub-clause (1) or an application for review under sub-clause (2) shall be in writing and preferred within fourteen days of the receipt of the order appealed against and the order passed on such appeal or review shall be final:

Provided that the appellate or reviewing authority may for reasons to be recorded admit an appeal or an application for review preferred after the expiry of fourteen days.

25. **Penalties.**—A contravention of clause 18 shall be punishable with fine not exceeding two hundred rupees in respect of a first contravention or five hundred rupees in respect of any subsequent contravention.

SCHEDULE I

[See clause 1(2)]

Classes of workers to whom this Scheme applies—

Workers working in the port for handling foodgrain, fertilizer and other cargoes, imported, exported or cleared by the Ministry of Food, Agriculture, Community Development and Corporation of the Government of India.

SCHEDULE II

[See clause 20]

The minimum number of days in a month for which wages are guaranteed should be assessed on the basis of average employment during the preceding 12 months according to the following procedure:—

- (a) Supposing an assessment is being made in the month of October 1965 the total number of workers in the pool as on 1st October 1964 and 31st October 1964 should be ascertained. The average strength, on the list of these categories should be ascertained by adding the two figures and dividing by 2.
- (b) The total number of man-shifts worked by gang workers of the categories referred to in (a) during the month should be ascertained from the daily employment statistics.
- (c) The total number of man-days of authorised or unauthorised leave taken by the above workers should be ascertained. This figure should be divided by the number of working days in the month to ascertain the average number of workers away on leave.
- (d) The figures ascertained as in (c) should be deducted from the average obtained as in (a) to arrive at the effective strength of workers available during the month.
- (e) The figure of man-shifts ascertained under (b) should be divided by the effective strength ascertained as in (d). The figure arrived at will be the average number of days of employment during the month of October 1964.
- (f) The above process should be repeated for the remaining 11 months from November 1964 to September 1965.
- (g) The average employment figures for the 12 months should be added and divided by 12.
- (h) The figures arrived at in (g) above should be fixed as the minimum number of days for which wages will be guaranteed for the following 12 months ending 30th September, 1966.

The following example will illustrate:—

Suppose the total number of workers in the pool as on		
1st October, 1964		2,000
-do- 31st October, 1964		1,950
		<hr/> 3,950
Average strength on the list for the month	$\frac{3,950}{2}$	1,975
Total number of man-shifts worked by the workers of the above categories in October, 1964	36,000	
Total number of man-days authorised or unauthorised leave taken by the workers	5,250	

Number of working days in the said month (31st days of the month less one non-working day)	30	
Average number of workers away on leave	$\frac{5,250}{30}$	= 175
Effective strength available during the month	$1,975 - 175$	= 1,800
Average employment for the month of October, 1964	$\frac{36,000}{1,800}$	= 20 days

The same procedure will be followed to arrive at the average employment for the remaining 11 months. Let us assume the figures are as follows :—

October	1964	..	..	20
November	1964	..	..	21
December	1964	..	..	18
January	1965	..	..	20
February	1965	..	..	18
March	1965	..	..	19
April	1965	..	..	20
May	1965	..	..	19
June	1965	..	..	18
July	1965	..	..	19
August	1965	..	..	20
September	1965	..	..	16
TOTAL		..	..	<u>228</u>

The number of days for which wages will be guaranteed for the next 12 months ending 30th September 1966 will be $\frac{228}{12} = 19$ days.

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N. N. CHATTERJEE, Joint Secy.

